

70 FR 56443, September 27, 2005

A-580-601  
A-583-603  
Sunset Reviews  
Public Document  
Office 4: ZP

September 27, 2005

MEMORANDUM TO: Joseph A. Spetrini  
Acting Assistant Secretary  
for Import Administration

FROM: Barbara E. Tillman  
Acting Deputy Assistant Secretary  
for Import Administration

SUBJECT: Issues and Decision Memorandum

RE: Expedited Sunset Reviews of the Antidumping Duty Orders on  
Top-of-the-Stove Stainless Steel Cooking Ware from the Republic  
of Korea and Taiwan

---

### Summary

We have analyzed the responses of the interested parties in the second sunset review of the antidumping duty orders covering top-of-the-stove stainless steel cooking ware (“cooking ware”) from the Republic of Korea (“Korea”) and Taiwan. We received no responses from respondent interested parties. We recommend that you approve the positions we developed in the Discussion of the Issues section of this memorandum. Below is the complete list of the issues in these sunset reviews for which we received substantive responses:

1. Likelihood of continuation or recurrence of dumping
2. Magnitude of the margins likely to prevail

## History of the Orders

The Department of Commerce (“the Department”) published its final affirmative determinations of sales at less than fair value (“LTFV”) in the Federal Register with respect to imports of cooking ware from Korea and Taiwan at the following rates.<sup>1</sup>

### Korea

Bum Koo Industrial Co., Ltd .....	31.23
Dae Sung Industrial Co., Ltd.....	6.11
Hai Dong Stainless Industries, Co.....	12.14
Kyung Dong Industrial Co., Ltd.....	8.36
Namil Metal Co. Ltd.....	0.75
All Others .....	8.10

### Taiwan

Golden Lion Metal Industry Co., Ltd.....	15.08
Lyi Mean Industrial Co., Ltd .....	26.10
Song Far Industry Co., Ltd .....	25.90
All Others .....	22.61

The Department later published in the Federal Register antidumping duty orders on cooking ware from Korea and Taiwan.<sup>2</sup>

The Department conducted the first sunset reviews on imports of cooking ware from Korea and Taiwan, pursuant to section 751(c) of the Tariff Act of 1930, as amended (“the Act”), and found that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping at the same rates as found in the original investigations.<sup>3</sup> The International Trade Commission (“ITC or Commission”) determined, pursuant to section 751(c) of the Act, that revocation of these antidumping duty orders would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a

---

<sup>1</sup> See Final Determination of Sales at Less Than Fair Value: Certain Stainless Steel Cooking Ware from Korea, 51 FR 46889 (December 29, 1986); Final Determination of Sales at Less Than Fair Value: Certain Stainless Steel Cooking Ware from Taiwan, 51 FR 42882 (November 26, 1986).

<sup>2</sup> See Antidumping Duty Order: Certain Stainless Steel Cooking Ware from Korea, 52 FR 2139 (January 20, 1987); Antidumping Duty Order: Certain Stainless Steel Cooking Ware from Taiwan, 52 FR 2138 (January 20, 1987).

<sup>3</sup> See Final Results of Expedited Sunset Reviews: Top-of-the-Stove Stainless Steel Cookware From the Republic of Korea and Taiwan, 64 FR 40570 (July 27, 1999).

reasonably foreseeable time.<sup>4</sup> Thus, the Department published the notice of continuation of these antidumping duty orders.<sup>5</sup>

During the past five years, the Department conducted three administrative reviews of the antidumping duty order on cooking ware from Korea. The first administrative review resulted in margins ranging from 1.67 percent to 31.23 percent.<sup>6</sup> The second administrative review resulted in margins ranging from 1.26 percent to 31.23 percent.<sup>7</sup> The third and final administrative review resulted in margins ranging from 0.17 percent to 31.23 percent.<sup>8</sup>

With regard to Taiwan, the Department conducted no reviews since the inception of the antidumping duty order on cooking ware from this country.

On March 1, 2005, the Department published the notice of initiation of the second sunset reviews of the antidumping duty orders on cooking ware from Korea and Taiwan pursuant to section 751(c) of the Act. See Initiation of Five-Year (“Sunset”) Reviews, 70 FR 9919 (March 1, 2005). The Department received the Notice of Intent to Participate from Regal Ware, Inc.; Vita Craft Corporation; and Paper Allied Industrial Chemical & Energy Workers (Local 7-0850) (collectively “the domestic interested parties”), within the deadline specified in section 351.218(d)(1)(i) of the Department’s regulations. The domestic interested parties claimed interested party status under sections 771(9)(C) and (D) of the Act, as manufacturers of a domestic-like product in the United States, and unions whose workers are engaged in the production of a domestic-like product in the United States.

We received complete substantive responses from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). We received no responses from respondent interested parties with respect to any of the orders covered by these sunset reviews. As a result, pursuant to section 751(c)(4)(A) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted expedited (120-day) sunset reviews of these orders for Korea and Taiwan.

---

<sup>4</sup> See Porcelain-on-Steel Cooking Ware From China, Mexico, and Taiwan, and Top-of-the-Stove Stainless Steel Cooking Ware From Korea and Taiwan, 65 FR 17902 (April 5, 2000).

<sup>5</sup> See Continuation of Antidumping Duty Orders and Countervailing Duty Orders: Top-of-the-Stove Stainless Steel Cooking Ware From Korea and Taiwan, 65 FR 20801 (April 18, 2000).

<sup>6</sup> For specific margins, see Top-of-the-Stove Stainless Steel Cooking Ware From the Republic of Korea: Final Results and Rescission, in Part, of Antidumping Duty Administrative Review, 66 FR 45664 (August 29, 2001); Top-of-the-Stove Stainless Steel Cooking Ware From the Republic of Korea: Amended Final Results and Rescission, in Part, of Antidumping Duty Administrative Review, 66 FR 49930 (October 1, 2001).

<sup>7</sup> For specific margins, see Top-of-the-Stove Stainless Steel Cooking Ware From the Republic of Korea: Final Results and Rescission, in Part, of Antidumping Duty Administrative Review, 67 FR 40274 (June 12, 2002).

<sup>8</sup> For specific margins, see Top-of-the-Stove Stainless Steel Cooking Ware From the Republic of Korea: Final Results and Rescission, in Part, of Antidumping Duty Administrative Review, 68 FR 7503 (February 14, 2003).

## Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department conducted these sunset reviews to determine whether revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping. Sections 752(c)(1)(A) and (B) of the Act provide that, in making these determinations, the Department shall consider both the weighted-average dumping margins determined in the investigations and subsequent reviews and the volume of imports of the subject merchandise for the periods before and after the issuance of the antidumping duty orders. In addition, section 752(c)(3) of the Act provides that the Department shall provide to the ITC the magnitude of the margins of dumping likely to prevail if the orders were revoked. Below we address the comments of the interested parties.

### 1. Likelihood of Continuation or Recurrence of Dumping

#### Interested Party Comments

The domestic interested parties believe that revocation of these antidumping duty orders would be likely to lead to a continuation or recurrence of dumping by the Korean and Taiwanese producers and exporters of the subject merchandise. See Korea-Substantive Response of domestic interested parties (March 31, 2005) at 12, and Taiwan-Substantive Response of domestic interested parties (March 31, 2005) at 7.

Korea: The domestic interested parties state that the dumping margins for the Korean respondents have been continuously above de minimis since the inception of the order. With the exception of one respondent in one review, the Department consistently found all other respondents carrying significant dumping margins. See Korea-Substantive Response of domestic interested parties (March 31, 2005) at 13, fn. 8.

Thus, in light of the existing margins, the domestic interested parties urge the Department to determine that dumping is likely to continue if the orders were revoked. The domestic interested parties also argue that the volume of shipments of cooking ware from Korea declined significantly since the inception of the order. Specifically, the parties compare the volume of shipments before the LTFV investigation and the volume during current five-year sunset review and claim that the shipments of cooking ware from Korea decreased by over 95 percent. Id. at 14. Thus, the domestic interested parties conclude that the substantial dumping margins and significant decline in the volume of imports following the issuance of the antidumping duty order demonstrate that revocation of the order will certainly lead to a continuation of dumping. Id.

Taiwan: The domestic interested parties state that dumping margins for the Taiwanese respondents (all above de minimis) remain at the levels set in the investigation because there have been no antidumping administrative reviews completed. They also state that the volume of imports subject to this order declined significantly. Specifically, the parties compare the volume of shipments of cooking ware from Taiwan before the LTFV investigation and the volume during current five-year sunset review and claim that the shipments of cooking ware from Taiwan

decreased by over 96 percent since the issuance of the order. Thus, the domestic interested parties conclude that the substantial dumping margins and significant decline in the volume of imports, following the issuance of the antidumping duty order, demonstrate that revocation of the order will certainly lead to a continuation of dumping. See Taiwan-Substantive Response of domestic interested parties (March 31, 2005) at 7-9.

### Department's Position

Consistent with the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act, specifically the Statement of Administrative Action ("SAA"), H.R. Doc. No. 103-316, vol. 1 (1994), the House Report, H. Rep. No. 103-826, pt. 1 (1994) ("House Report"), and the Senate Report, S. Rep. No. 103-412 (1994) ("Senate Report"), the Department's determinations of likelihood will be made on an order-wide basis.<sup>9</sup> In addition, the Department normally will determine that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above de minimis after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly.<sup>10</sup> In addition, pursuant to 752(c)(1)(B) of the Act, the Department considers the volume of imports of the subject merchandise for the period before and after the issuance of the antidumping order.

Korea: Using statistics provided by the domestic interested parties in their March 31, 2005, Substantive Response, at Enclosure 1, the Department finds that imports of Korean cooking ware fluctuated between 5,259,000 and 757,000 units during the current sunset review, but remained far below pre-order levels of 35,540,000 units. Given that dumping has continued at above de minimis levels, and that imports are below pre-order volumes, the Department determines that dumping is likely to continue or recur if the order were revoked.

Taiwan: Using statistics provided by the domestic interested parties in their March 31, 2005, Substantive Response, at Attachment 1, the Department finds that imports of Taiwanese cooking ware fluctuated between 1,591,000 and 587,000 units since the first sunset review, but have not returned to pre-order levels of 15,208,000 units. Given that there have been no reviews since the investigation, dumping continues at above de minimis levels, and imports are significantly below pre-order levels, the Department determines that dumping is likely to continue or recur if the order were revoked.

---

<sup>9</sup> See SAA at 879 and House Report at 56.

<sup>10</sup> See SAA at 889 and 890, House Report at 63-64, and Senate Report at 52.

## 2. Magnitude of the Margins Likely to Prevail

### Interested Party Comments

Korea: In their March 31, 2005, substantive response, the domestic interested parties request that the Department report to the ITC the margins that were determined in the final determination of the LTFV original investigation in accordance with the SAA. See pages 15-16. The domestic interested parties recommend the following dumping margins:

Bum Koo Industrial Co., Ltd.....	31.23
Dae Sung Industrial Co., Ltd.....	6.11
Hai Dong Stainless Industries, Co.....	12.14
Kyung Dong Industrial Co., Ltd.....	8.36
Namil Metal Co. Ltd .....	0.75
All Others .....	8.10

Taiwan: In their March 31, 2005, substantive response, the domestic interested parties request that the Department report to the ITC the margins that were determined in the final determination of the LTFV original investigation in accordance with the SAA. See page 10. The domestic interested parties recommend the following dumping margins:

Golden Lion Metal Industry Co., Ltd.....	15.08
Lyi Mean Industrial Co., Ltd.....	26.10
Song Far Industry Co., Ltd.....	25.90
All Others .....	22.61

### Department's Position

The Department will normally provide to the ITC the company-specific margin from the investigation for each company. For companies not investigated specifically or that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the "all others" rate from the investigation. The Department prefers to select a margin from the investigation because it is the only calculated rate that reflects the behavior of manufacturers, producers, and exporters without the discipline of an order or suspension agreement in place. Under certain circumstances, however, the Department may select a more recently calculated margin to report to the ITC.

Korea: With respect to cooking ware from Korea, in the first sunset review, the Department reported to the ITC the margins from the original investigation. Since the first sunset review, the Department completed three administrative reviews resulting in margins between 0.17 percent and 31.23 percent. In this sunset review, the domestic interested parties request that the Department continue to use the investigation rates. The Department finds that it is appropriate to provide the ITC with the rates from the investigation because these are the only calculated rates that reflect the behavior of manufacturers, producers, and exporters without the discipline of an

order in place. Additionally, the respondent interested parties did not dispute these rates. Thus, the Department will report to the ITC the same margins as listed in the Final Results of Reviews section.

Taiwan: Since the first sunset review, the Department has conducted no administrative reviews of cooking ware from Taiwan. The Department finds that it is appropriate to provide the ITC with the rates from the investigation because these are the only calculated rates that reflect the behavior of manufacturers, producers, and exporters without the discipline of an order in place. Thus, the Department will report to the ITC the same margins as listed in the Final Results of Reviews section.

Final Results of Reviews

We determine that revocation of the antidumping duty orders on cooking ware from Korea and Taiwan would likely lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

Manufacturers/Exporters/Producers	Weighted-Average Margin (percent)
<u>Korea</u>	
Bum Koo Industrial Co., Ltd.....	31.23
Dae Sung Industrial Co., Ltd.....	6.11
Hai Dong Stainless Industries, Co.....	12.14
Kyung Dong Industrial Co., Ltd.....	8.36
Namil Metal Co. Ltd.....	0.75
All Others .....	8.10
<u>Taiwan</u>	
Golden Lion Metal Industry Co., Ltd.....	15.08
Lyi Mean Industrial Co., Ltd .....	26.10
Song Far Industry Co., Ltd .....	25.90
All Others .....	22.61

Recommendation

Based on our analysis of the responses received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final results of review in the Federal Register.

AGREE \_\_\_\_\_

DISAGREE \_\_\_\_\_

\_\_\_\_\_  
Joseph A. Spetrini  
Acting Assistant Secretary  
for Import Administration

\_\_\_\_\_  
(Date)